

105TH CONGRESS
1ST SESSION

S. 680

To amend the Internal Revenue Code of 1986 to allow a credit for interest paid on loans for higher education, to provide for education savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 1, 1997

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit for interest paid on loans for higher education, to provide for education savings accounts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Go to College Tax In-
5 centives Act”.

1 **SEC. 2. CREDIT FOR INTEREST ON HIGHER EDUCATION**
 2 **LOANS.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to nonrefundable personal credits) is
 6 amended by inserting after section 23 the following new
 7 section:

8 **“SEC. 24. INTEREST ON HIGHER EDUCATION LOANS.**

9 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 10 dividual, there shall be allowed as a credit against the tax
 11 imposed by this chapter for the taxable year an amount
 12 equal to the interest paid by the taxpayer during the tax-
 13 able year on any qualified education loan.

14 “(b) MAXIMUM CREDIT.—

15 “(1) IN GENERAL.—Except as provided in para-
 16 graph (2), the credit allowed by subsection (a) for
 17 the taxable year shall not exceed \$1,500.

18 “(2) LIMITATION BASED ON MODIFIED AD-
 19 JUSTED GROSS INCOME.—

20 “(A) IN GENERAL.—If the modified ad-
 21 justed gross income of the taxpayer for the tax-
 22 able year exceeds \$50,000 (\$80,000 in the case
 23 of a joint return), the amount which would (but
 24 for this paragraph) be allowable as a credit
 25 under this section shall be reduced (but not
 26 below zero) by the amount which bears the

1 same ratio to the amount which would be so al-
 2 lowable as such excess bears to \$20,000.

3 “(B) MODIFIED ADJUSTED GROSS IN-
 4 COME.—The term ‘modified adjusted gross in-
 5 come’ means adjusted gross income determined
 6 without regard to sections 911, 931, and 933.

7 “(C) INFLATION ADJUSTMENT.—In the
 8 case of any taxable year beginning after 1997,
 9 the \$50,000 and \$80,000 amounts referred to
 10 in subparagraph (A) shall be increased by an
 11 amount equal to—

12 “(i) such dollar amount, multiplied by

13 “(ii) the cost-of-living adjustment de-
 14 termined under section (1)(f)(3) for the
 15 calendar year in which the taxable year be-
 16 gins, by substituting ‘1996’ for ‘1992’.

17 “(D) ROUNDING.—If any amount as ad-
 18 justed under subparagraph (C) is not a multiple
 19 of \$50, such amount shall be rounded to the
 20 nearest multiple of \$50.

21 “(e) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No
 22 credit shall be allowed by this section to an individual for
 23 the taxable year if a deduction under section 151 with re-
 24 spect to such individual is allowed to another taxpayer for

1 the taxable year beginning in the calendar year in which
 2 such individual's taxable year begins.

3 “(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit
 4 shall be allowed under this section only with respect to
 5 interest paid on any qualified education loan during the
 6 first 60 months (whether or not consecutive) in which in-
 7 terest payments are required. For purposes of this para-
 8 graph, any loan and all refinancings of such loan shall be
 9 treated as 1 loan.

10 “(e) DEFINITIONS.—For purposes of this section—

11 “(1) QUALIFIED EDUCATION LOAN.—The term
 12 ‘qualified education loan’ means any indebtedness
 13 incurred to pay qualified higher education ex-
 14 penses—

15 “(A) which are incurred on behalf of the
 16 taxpayer, the taxpayer's spouse, or any depend-
 17 ent of the taxpayer as of the time the indebted-
 18 ness was incurred,

19 “(B) which are paid or incurred within a
 20 reasonable period of time before or after the in-
 21 debtedness is incurred, and

22 “(C) which are attributable to education
 23 furnished during a period during which the re-
 24 cipient was at least a half-time student.

1 Such term includes indebtedness used to refinance
2 indebtedness which qualifies as a qualified education
3 loan. The term ‘qualified education loan’ shall not
4 include any indebtedness owed to a person who is re-
5 lated (within the meaning of section 267(b) or
6 707(b)(1)) to the taxpayer.

7 “(2) QUALIFIED HIGHER EDUCATION EX-
8 PENSES.—The term ‘qualified higher education ex-
9 penses’ means the cost of attendance (as defined in
10 section 472 of the Higher Education Act of 1965,
11 20 U.S.C. 1087ll, as in effect on the day before the
12 date of the enactment of this Act) of the taxpayer,
13 the taxpayer’s spouse, or a dependent of the tax-
14 payer at an eligible educational institution, reduced
15 by the sum of—

16 “(A) the amount excluded from gross in-
17 come under section 135 by reason of such ex-
18 penses, and

19 “(B) the amount of the reduction de-
20 scribed in section 135(d)(1).

21 For purposes of the preceding sentence, the term ‘el-
22 igible educational institution’ has the same meaning
23 given such term by section 135(c)(3), except that
24 such term shall also include an institution conduct-
25 ing an internship or residency program leading to a

1 degree or certificate awarded by an institution of
 2 higher education, a hospital, or a health care facility
 3 which offers postgraduate training.

4 “(3) HALF-TIME STUDENT.—The term ‘half-
 5 time student’ means any individual who would be a
 6 student as defined in section 151(c)(4) if ‘half-time’
 7 were substituted for ‘full-time’ each place it appears
 8 in such section.

9 “(4) DEPENDENT.—The term ‘dependent’ has
 10 the meaning given such term by section 152.

11 “(f) SPECIAL RULES.—

12 “(1) DENIAL OF DOUBLE BENEFIT.—No credit
 13 shall be allowed under this section for any amount
 14 for which a deduction is allowable under any other
 15 provision of this chapter.

16 “(2) MARRIED COUPLES MUST FILE JOINT RE-
 17 TURN.—If the taxpayer is married at the close of
 18 the taxable year, the credit shall be allowed under
 19 subsection (a) only if the taxpayer and the tax-
 20 payer’s spouse file a joint return for the taxable
 21 year.

22 “(3) MARITAL STATUS.—Marital status shall be
 23 determined in accordance with section 7703.”

24 (b) REPORTING REQUIREMENT.—

1 (1) IN GENERAL.—Subpart B of part III of
 2 subchapter A of chapter 61 of the Internal Revenue
 3 Code of 1986 (relating to information concerning
 4 transactions with other persons) is amended by in-
 5 serting after section 6050R the following new sec-
 6 tion:

7 **“SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN IN-**
 8 **TEREST RECEIVED IN TRADE OR BUSINESS**
 9 **FROM INDIVIDUALS.**

10 “(a) EDUCATION LOAN INTEREST OF \$600 OR
 11 MORE.—Any person—

12 “(1) who is engaged in a trade or business, and

13 “(2) who, in the course of such trade or busi-
 14 ness, receives from any individual interest aggregat-
 15 ing \$600 or more for any calendar year on 1 or
 16 more qualified education loans,

17 shall make the return described in subsection (b) with re-
 18 spect to each individual from whom such interest was re-
 19 ceived at such time as the Secretary may by regulations
 20 prescribe.

21 “(b) FORM AND MANNER OF RETURNS.—A return
 22 is described in this subsection if such return—

23 “(1) is in such form as the Secretary may pre-
 24 scribe, and

25 “(2) contains—

1 “(A) the name, address, and TIN of the
 2 individual from whom the interest described in
 3 subsection (a)(2) was received,

4 “(B) the amount of such interest received
 5 for the calendar year, and

6 “(C) such other information as the Sec-
 7 retary may prescribe.

8 “(c) APPLICATION TO GOVERNMENTAL UNITS.—For
 9 purposes of subsection (a)—

10 “(1) TREATED AS PERSONS.—The term ‘per-
 11 son’ includes any governmental unit (and any agency
 12 or instrumentality thereof).

13 “(2) SPECIAL RULES.—In the case of a govern-
 14 mental unit or any agency or instrumentality there-
 15 of—

16 “(A) subsection (a) shall be applied with-
 17 out regard to the trade or business requirement
 18 contained therein, and

19 “(B) any return required under subsection
 20 (a) shall be made by the officer or employee ap-
 21 propriately designated for the purpose of mak-
 22 ing such return.

23 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
 24 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
 25 QUIRED.—Every person required to make a return under

1 subsection (a) shall furnish to each individual whose name
2 is required to be set forth in such return a written state-
3 ment showing—

4 “(1) the name and address of the person re-
5 quired to make such return, and

6 “(2) the aggregate amount of interest described
7 in subsection (a)(2) received by the person required
8 to make such return from the individual to whom
9 the statement is required to be furnished.

10 The written statement required under the preceding sen-
11 tence shall be furnished on or before January 31 of the
12 year following the calendar year for which the return
13 under subsection (a) was required to be made.

14 “(e) QUALIFIED EDUCATION LOAN DEFINED.—For
15 purposes of this section, except as provided in regulations
16 prescribed by the Secretary, the term ‘qualified education
17 loan’ has the meaning given such term by section 24(e)(1).

18 “(f) RETURNS WHICH WOULD BE REQUIRED TO BE
19 MADE BY 2 OR MORE PERSONS.—Except to the extent
20 provided in regulations prescribed by the Secretary, in the
21 case of interest received by any person on behalf of an-
22 other person, only the person first receiving such interest
23 shall be required to make the return under subsection
24 (a).”

1 (2) ASSESSABLE PENALTIES.—Section 6724(d)
2 of such Code (relating to definitions) is amended—

3 (A) in paragraph (1)(B), by redesignating
4 clauses (x) through (xv) as clauses (xi) through
5 (xvi), respectively, and by inserting after clause
6 (ix) the following new clause:

7 “(x) section 6050S (relating to re-
8 turns relating to education loan interest re-
9 ceived in trade or business from individ-
10 uals),”, and

11 (B) in paragraph (2), by striking “or” at
12 the end of the next to last subparagraph, by
13 striking the period at the end of the last sub-
14 paragraph and inserting “, or”, and by adding
15 at the end the following new subparagraph:

16 “(Z) section 6050S(d) (relating to returns
17 relating to education loan interest received in
18 trade or business from individuals).”

19 (c) CONFORMING AMENDMENTS.—

20 (1) The table of sections for subpart A of part
21 IV of subchapter A of chapter 1 of the Internal Rev-
22 enue Code of 1986 is amended by inserting after the
23 item relating to section 23 the following new item:

 “Sec. 24. Interest on higher education loans.”

24 (2) The table of sections for subpart B of part
25 III of subchapter A of chapter 61 of such Code is

1 amended by inserting after the item relating to sec-
 2 tion 6050R the following new section:

“Sec. 6050S. Returns relating to education loan interest received
 in trade or business from individuals.”

3 (d) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply to any qualified education loan (as
 5 defined in section 24(e)(1) of the Internal Revenue Code
 6 of 1986, as added by this section) incurred on, before, or
 7 after the date of the enactment of this Act, but only with
 8 respect to any loan interest payment due after December
 9 31, 1996.

10 **SEC. 3. EDUCATION SAVINGS ACCOUNTS.**

11 (a) **IN GENERAL.**—Part VIII of subchapter F of
 12 chapter 1 of the Internal Revenue Code of 1986 (relating
 13 to qualified State tuition programs) is amended by adding
 14 at the end the following new section:

15 **“SEC. 530. EDUCATION SAVINGS ACCOUNTS.**

16 “(a) **GENERAL RULE.**—An education savings account
 17 shall be exempt from taxation under this subtitle. Not-
 18 withstanding the preceding sentence, the education sav-
 19 ings account shall be subject to the taxes imposed by sec-
 20 tion 511 (relating to imposition of tax on unrelated busi-
 21 ness income of charitable organizations).

22 “(b) **LIMITATIONS ON ACCOUNTS.**—

23 “(1) **ACCOUNT MAY NOT BE ESTABLISHED FOR**
 24 **BENEFIT OF MORE THAN 1 INDIVIDUAL.**—An edu-

1 cation savings account may not be established for
 2 the benefit of more than 1 individual.

3 “(2) SPECIAL RULE WHERE MORE THAN 1 AC-
 4 COUNT.—If, at any time during a calendar year, 2
 5 or more education savings accounts are maintained
 6 for the benefit of an individual, only the account
 7 first established shall be treated as an education sav-
 8 ings account for purposes of this section. This para-
 9 graph shall not apply to the extent more than 1 ac-
 10 count exists solely by reason of a rollover contribu-
 11 tion.

12 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
 13 poses of this section—

14 “(1) EDUCATION SAVINGS ACCOUNT.—The
 15 term ‘education savings account’ means a trust cre-
 16 ated or organized in the United States exclusively
 17 for the purpose of paying the qualified higher edu-
 18 cation expenses of the account holder, but only if the
 19 written governing instrument creating the trust
 20 meets the following requirements:

21 “(A) No contribution will be accepted—

22 “(i) unless it is in cash,

23 “(ii) except in the case of rollover con-
 24 tributions from another education savings

1 account, in excess of \$1,000 for any cal-
2 endar year, and

3 “(iii) after the date on which the ac-
4 count holder attains age 18.

5 “(B) The trustee is a bank (as defined in
6 section 408(n)) or another person who dem-
7 onstrates to the satisfaction of the Secretary
8 that the manner in which that person will ad-
9 minister the trust will be consistent with the re-
10 quirements of this section.

11 “(C) No part of the trust assets will be in-
12 vested in life insurance contracts (other than
13 contracts the beneficiary of which is the trust
14 and the face amount of which does not exceed
15 the amount by which the maximum amount
16 which can be contributed to the education sav-
17 ings account exceeds the sum of the amounts
18 contributed to the account for all taxable
19 years).

20 “(D) The assets of the trust shall not be
21 commingled with other property except in a
22 common trust fund or common investment
23 fund.

24 “(E) Any balance in the education savings
25 account on the day after the date on which the

individual for whose benefit the trust is established attains age 30 (or, if earlier, the date on which such individual dies) shall be distributed within 30 days of such date to the account holder (or in the case of death, the beneficiary).

“(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

“(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified higher education expenses’ means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer’s spouse, or a dependent of the taxpayer at an eligible educational institution, except that such expenses shall be reduced by any amount described in section 135(d)(1) (re-

1 lating to certain scholarships and veterans ben-
2 efits).

3 “(B) STATE TUITION PLANS.—Such term
4 shall include amounts paid or incurred to pur-
5 chase tuition credits or certificates, or to make
6 contributions to an account, under a qualified
7 State tuition program (as defined in section
8 529(b)).

9 “(4) ELIGIBLE EDUCATIONAL INSTITUTION.—
10 The term ‘eligible educational institution’ has the
11 meaning given such term by section 135(c)(3), ex-
12 cept that such term shall also include an institution
13 conducting an internship or residency program lead-
14 ing to a degree or certificate awarded by an institu-
15 tion of higher education, a hospital, or a health care
16 facility which offers postgraduate training.

17 “(5) ACCOUNT HOLDER.—The term ‘account
18 holder’ means the individual for whose benefit the
19 education savings account is established.

20 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, any amount paid or distrib-
23 uted out of an education savings account shall be in-
24 cluded in gross income of the payee or distributee
25 for the taxable year in the manner prescribed by sec-

tion 72. For purposes of the preceding sentence, rules similar to the rules of section 408(d)(2) shall apply.

“(2) DISTRIBUTION USED TO PAY EDUCATIONAL EXPENSES.—Paragraph (1) shall not apply to any payment or distribution out of an education savings account to the extent such payment or distribution is used exclusively to pay the qualified higher education expenses of the account holder.

“(3) SPECIAL RULE FOR APPLYING SECTION 2503.—If any payment or distribution from an education savings account is used exclusively for the payment to an eligible educational institution of the qualified higher education expenses of the account holder, such payment shall be treated as a qualified transfer for purposes of section 2503(e).

“(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

“(A) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from an education savings account which is includible in gross income under paragraph (1) shall be increased by 10 percent of the amount which is so includible.

1 “(B) EXCEPTION FOR DISABILITY, DEATH,
2 OR SCHOLARSHIP.—Subparagraph (A) shall not
3 apply if the payment or distribution is—

4 “(i) made on account of the death or
5 disability of the account holder, or

6 “(ii) made on account of a scholarship
7 (or allowance or payment described in sub-
8 paragraph (B) or (C) of section 135(d)(1))
9 received by the account holder to the ex-
10 tent the amount of the payment or dis-
11 tribution does exceed the amount of the
12 scholarship, allowance, or payment.

13 “(C) EXCESS CONTRIBUTIONS RETURNED
14 BEFORE DUE DATE OF RETURN.—Subpara-
15 graph (A) shall not apply to the distribution to
16 a contributor of any contribution paid during a
17 taxable year to an education savings account to
18 the extent that such contribution, when added
19 to previous contributions to the account during
20 the taxable year, exceeds \$1,000 if—

21 “(i) such distribution is received on or
22 before the day prescribed by law (including
23 extensions of time) for filing such contribu-
24 tor’s return for such taxable year, and

1 “(ii) such distribution is accompanied
2 by the amount of net income attributable
3 to such excess contribution.

4 Any net income described in clause (ii) shall be
5 included in the gross income of the contributor
6 for the taxable year in which such excess con-
7 tribution was made.

8 “(5) ROLLOVER CONTRIBUTIONS.—Paragraph
9 (1) shall not apply to any amount paid or distrib-
10 uted from an education savings account to the ex-
11 tent that the amount received is paid into another
12 education savings account for the benefit of the ac-
13 count holder not later than the 60th day after the
14 day on which the holder receives the payment or dis-
15 tribution. The preceding sentence shall not apply to
16 any payment or distribution if it applied to any prior
17 payment or distribution during the 12-month period
18 ending on the date of the payment or distribution.

19 “(6) SPECIAL RULES FOR DEATH AND DI-
20 VORCE.—Rules similar to the rules of paragraphs
21 (7) and (8) of section 220(f) shall apply.

22 “(e) TAX TREATMENT OF ACCOUNTS.—Rules similar
23 to the rules of paragraphs (2) and (4) of section 408(e)
24 shall apply to any education savings account, and any
25 amount treated as distributed under such rules shall be

1 treated as not used to pay qualified higher education ex-
2 penses.

3 “(f) COMMUNITY PROPERTY LAWS.—This section
4 shall be applied without regard to any community property
5 laws.

6 “(g) CUSTODIAL ACCOUNTS.—For purposes of this
7 section, a custodial account shall be treated as a trust if
8 the assets of such account are held by a bank (as defined
9 in section 408(n)) or another person who demonstrates,
10 to the satisfaction of the Secretary, that the manner in
11 which he will administer the account will be consistent
12 with the requirements of this section, and if the custodial
13 account would, except for the fact that it is not a trust,
14 constitute an account described in subsection (b)(1). For
15 purposes of this title, in the case of a custodial account
16 treated as a trust by reason of the preceding sentence,
17 the custodian of such account shall be treated as the trust-
18 ee thereof.

19 “(h) REPORTS.—The trustee of an education savings
20 account shall make such reports regarding such account
21 to the Secretary and to the account holder with respect
22 to contributions, distributions, and such other matters as
23 the Secretary may require under regulations. The reports
24 required by this subsection shall be filed at such time and
25 in such manner and furnished to such individuals at such

1 time and in such manner as may be required by those reg-
 2 ulations.”

3 (b) TAX ON PROHIBITED TRANSACTIONS.—Section
 4 4975 of the Internal Revenue Code of 1986 (relating to
 5 prohibited transactions) is amended—

6 (1) by adding at the end of subsection (c) the
 7 following new paragraph:

8 “(5) SPECIAL RULE FOR EDUCATION SAVINGS
 9 ACCOUNTS.—An individual for whose benefit an edu-
 10 cation savings account is established and any con-
 11 tributor to such account shall be exempt from the
 12 tax imposed by this section with respect to any
 13 transaction concerning such account (which would
 14 otherwise be taxable under this section) if, with re-
 15 spect to such transaction, the account ceases to be
 16 an education savings account by reason of the appli-
 17 cation of section 530 to such account.”; and

18 (2) in subsection (e)(1), by striking “or” at the
 19 end of subparagraph (D), by redesignating subpara-
 20 graph (E) as subparagraph (F), and by inserting
 21 after subparagraph (D) the following new subpara-
 22 graph:

23 “(E) an education savings account de-
 24 scribed in section 530, or”.

1 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION
 2 SAVINGS ACCOUNTS.—Section 6693 of the Internal Reve-
 3 nue Code of 1986 (relating to failure to provide reports
 4 on individual retirement accounts or annuities) is amend-
 5 ed—

6 (1) by inserting “**OR ON EDUCATION SAV-**
 7 **INGS ACCOUNTS**” after “**ANNUITIES**” in the
 8 heading of such section, and

9 (2) in subsection (a)(2), by striking “and” at
 10 the end of subparagraph (A), by striking the period
 11 at the end of subparagraph (B) and inserting “,
 12 and”, and by adding at the end the following new
 13 subparagraph:

14 “(C) section 530(h) (relating to education
 15 savings accounts).”

16 (d) COORDINATION WITH SAVINGS BOND EXCLU-
 17 SION.—Section 135(d)(1) of the Internal Revenue Code
 18 of 1986 (relating to adjustment for certain scholarships
 19 and veterans benefits) is amended by striking “or” at the
 20 end of subparagraph (C), by striking the period at the end
 21 of subparagraph (D) and inserting “, or”, and by inserting
 22 at the end the following new subparagraph:

23 “(E) a payment or distribution from an
 24 education savings account (as defined in section
 25 530).”

1 (e) CONFORMING AMENDMENTS.—

2 (1) The table of sections for part VIII of sub-
 3 chapter F of chapter 1 of the Internal Revenue Code
 4 of 1986 is amended by adding at the end the follow-
 5 ing new item:

“Sec. 530. Education savings accounts.”

6 (2)(A) The heading for part VIII of subchapter
 7 F of chapter 1 of such Code is amended to read as
 8 follows:

9 **“PART VIII—HIGHER EDUCATION SAVINGS**
 10 **ENTITIES”.**

11 (B) The table of parts for subchapter F of
 12 chapter 1 of such Code is amended by striking the
 13 item relating to part VIII and inserting:

“Part VIII. Higher education savings entities.”

14 (3) The table of sections for subchapter B of
 15 chapter 68 of such Code is amended by striking the
 16 item relating to section 6693 and inserting the fol-
 17 lowing new item:

“Sec. 6693. Failure to provide reports on individual retirement
 accounts or annuities or on education savings ac-
 counts.”

18 (f) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 December 31, 1996.

